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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/583,864	06/01/2000	Guy Nathan	871-81	4657

7590 02/24/2005

Nixon & Vanderhye PC
 1100 North Glebe Road 8th Floor
 Arlington, VA 22201-4714

EXAMINER

FLANDERS, ANDREW C

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/583,864

Applicant(s)

NATHAN ET AL.

Examiner

Andrew C Flanders

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 29 January 2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 10 rejected under 35 U.S.C. 102(e) as being anticipated by Basel (U.S. Patent 6,341,166).

4. Regarding Claim 10, Basel discloses an audio system configured to equalize an audio input signal provided from an audio source storage medium. The audio system comprises an index control unit configured to read a parameter from the audio source storage medium, and a spectral balance correction memory which stores particular equalizer settings coupled to the index control unit. The audio system further comprises a source correction equalization unit coupled to the spectral balance correction memory

bank, wherein the source correction equalization unit is coupled to receive the audio input signal and the particular equalizer settings. The source correction equalization unit is further configured to adjust the magnitude of selected frequency ranges of the audio input signal in accordance with the particular equalizer settings, thereby establishing an audio output signal (col. 3 lines 4 – 19).

Allowable Subject Matter

5. Claims 1- 9 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: Claim 1 states “a step consisting of determining, in absolute values, for a recording, the maximum amplitude values for sound frequencies audible for the human ear and a step consisting of calculating the possible gain for a specified sound level setting, between the maximum amplitude value determined above and the maximum amplitude value for all frequencies combined” Takahashi (U.S. Patent Application Publication 2001/0016815) teaches of calculating the absolute values of audio samples (paragraph 158) (i.e. determining in absolute values). Gupta (U.S. Patent 6,744,882) teaches calculating a difference value between the absolute values of two audio samples (col. 7 lines 55 – 57) and Brandstetter (U.S. Patent 6,522,707) discloses an equalizer that receives signals having an amplitude and adjusting the amplitude of the signals, a level detector connected to the equalizer for comparing the amplitude adjusted signals to at least a lower reference level and an upper reference level (col. 3 lines 14 – 35) (i.e. determining the maximum amplitude values for sound frequencies audible for the human ear and calculating the possible gain for a specified sound level

setting, between the maximum amplitude value determined above and the maximum amplitude value for all frequencies combined). While these three sources read upon the limitations of the invention in claim 1, one of ordinary skill in the art at the time of the invention would not have had sufficient motivation for combining these elements.


Furthermore Brandstetter does not specifically disclose the two levels as the maximum amplitude value determined and the maximum amplitude value for all frequencies combined. As such, the claim is allowable over the prior art.

7. Claims 2 – 9 are allowable as being dependent upon an allowable independent claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C Flanders whose telephone number is (703) 305-0381. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (703) 305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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SUPERVISORY PATENT EXAMINER

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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